

Original filed 2/27/07

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NOT FOR CITATION

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IN THE UNITED STATES DISTRICT COURT
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FOR THE NORTHERN DISTRICT OF CALIFORNIA
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DARVIN HEATH,) No. C 05-2688 JF (PR)
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Plaintiff,) ORDER OF DISMISSAL
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vs.)
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BOARD OF PRISON TERMS,)
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Defendant.)
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Plaintiff, a state prisoner proceeding pro se, filed a civil rights complaint pursuant
34 to 42 U.S.C. § 1983 against the Board of Prison Terms. Plaintiff has been granted leave
35 to proceed in forma pauperis in a separate order. On October 6, 2006, the Court
36 dismissed the complaint with leave to amend because Plaintiff did not set forth sufficient
37 facts to state a claim under 42 U.S.C. § 1983. The Court directed Plaintiff to file an
38 amended complaint, on the Court's enclosed form, within thirty days. The Court warned
39 Plaintiff that failure to amend within the designated time would result in a dismissal of the
40 complaint without prejudice. On October 18, 2006, the Court's order was returned by
41 mail as "undeliverable." As of the date of this order, Plaintiff has not communicated with
42 the Court, nor filed an amended complaint.

1 Accordingly, the instant complaint is dismissed without prejudice for Plaintiff's failure to
2 file an amended complaint and failure to prosecute this action pursuant to Federal Rule of
3 Civil Procedure 41(b).

4 IT IS SO ORDERED.

5 DATED: 2/23/07


6 JEREMY FOGEL
United States District Judge

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1 A copy of this ruling was mailed to the following:

2 Darvin Heath
3 V-53394
4 San Quentin State Prison
5 San Quentin, CA 94974

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